



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on November 7, 2006

Date of Meeting: September 19, 2006

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:35 p.m. on Tuesday, September 19, 2006 all members having been notified of the time and place thereof.

Deborah Rainone, Deputy City Clerk, announced Council Member Scott had notified her that she was still recovering from her injuries and was not able to attend the meeting. She would be participating in the meeting with a conference telephone and is watching the meeting on television. She has complied with all of the requirements allowing electronic participation. All votes will be done by roll call rather than by voice vote and Council Member Scott will participate in the discussion as well as the voting according to the rules and regulations allowing electronic participation.

Deborah Rainone, Deputy City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Vice Mayor, Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4 (Electronic Attendance)
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:	None
-----------------	------

Staff Members Present:

Mike Hein	City Manager
Michael Rankin	City Attorney
Deborah Rainone	Deputy City Clerk
Michael D. Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Deborah Rainone, Deputy City Clerk, after which Ryan Wyseman of Boy Scout Troop 294 presented the pledge of allegiance with the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed September 17 through 23, 2006 to be “Minority Enterprise Development Week.” Deb Turner, Co-chair of Minority and Small Business Alliance was present to accept the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 504, dated September 19, 2006 would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Vice Mayor West announced “Ward 2 Day at the Zoo” would be on Saturday, September 30, 2006. She encouraged families to attend and said family passes would be available at the Ward 2 office until September 28, 2006.
- b. Council Member Trasoff invited the public to attend the “Community Room Art Exhibit” reception to be held on September 21, 2006 at the Ward 6 office. This event would be honoring eleven artists and showcasing their work.

4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 505 dated September 19, 2006 would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 502 dated September 19, 2006, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor Licenses Applications

Note: There were no applications for liquor licenses scheduled for this meeting.

c. Special Event

Deborah Rainone, Deputy City Clerk announced Items 5c1 and 5c2 were withdrawn by the applicant on September 19, 2006 and the City Clerk's office had received written notice of the withdrawal.

1. Kingdom Investment Foundation of Tucson, Ward 6
446 North Campbell
Applicant: Steven James Nissen
City T43-06
Date of event: September 23, 2006
U of A Home Football Game Tailgate Party
Public Opinion: Written Arguments Opposed Filed
Staff has indicated the applicant is in compliance with city requirements.
(Continued from the Mayor and Council meeting of September 12, 2006)
2. Kingdom Investment Foundation of Tucson, Ward 6
446 North Campbell
Applicant: Steven James Nissen
City T44-06
Date of event: September 30, 2006
U of A Home Football Game Tailgate Party
Public Opinion: Written Arguments Opposed Filed
Staff has indicated the applicant is in compliance with city requirements.
(Continued from the Mayor and Council meeting of September 12, 2006)
3. Roadrunner Civitan Club, Ward 5
4823 South 6th Avenue
Applicant: Brandon D. Blair
City T52-06
Date of Event: October 14 & 15, 2006
Raise Money to Assist People with Developmental Disability
Staff has indicated the applicant is in compliance with city requirements.

4. Tucson Red Riders Inc., Ward 5
4844 East 22nd Street
Applicant: Narda F. Allen
City T67-06
Date of Event: September 24, 2006
Raise Money for Pediatric Brain Tumor Foundation
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

Note: There were no agent changes scheduled for this meeting.

It was moved by Council Member Leal and duly seconded to forward liquor license applications 5c3 and 5c4 to the Arizona State Liquor Board with a recommendation for approval.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye:	Council Members Ibarra, Uhlich, Scott, Leal and Trasoff; Vice Mayor West and Mayor Walkup
Nay:	None

The motion passed 7 to 0, to forward liquor license applications 5c3 and 5c4 to the Arizona State Liquor Board with a recommendation for approval.

7. CALL TO THE AUDIENCE

(Note: This item was taken out of order and considered after Item 5)

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations and Call to the Audience was scheduled to last for ten minutes.

- a. Michael Toney spoke about the University of Arizona, the Memorandum of Understanding with the Rio Nuevo Multipurpose District and solar energy.
- b. Roger Wiens spoke about Consent Agenda Items F and G, the Lofts at Fifth Avenue, and expressed his approval of the project, but he wanted to make sure the project met density requirements as stated in the *Land Use Code*.
- c. Gal Witmer spoke about Consent Agenda Items F and G, the Lofts at Fifth Avenue, and said this had the potential to be a great project, but there were some unanswered questions regarding density.

- d. Chris Gans spoke about Consent Agenda Items F and G, the Lofts at Fifth Avenue. He said he was one of the neighbors who filed an appeal to the City and felt this project exceeded the current *Land Use Code* standards regarding density.

6. CONSENT AGENDA – ITEMS A THROUGH G

(Note: This item was taken out of order and considered after Item 7)

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. COMMUNITY SPECIAL EVENTS: DESIGNATING BOUNDARIES AND ESTABLISHING HOURS AND DATES FOR COMMUNITY SPECIAL EVENTS AND DESIGNATING TUCSON DOWNTOWN ALLIANCE AS THE EVENT SPONSOR

- 1. Report from City Manager SEPT19-06-507 CITY-WIDE
- 2. Resolution No. 20458 relating to community special events; designating boundaries of Tucson Downtown Alliance (TDA) community special events; establishing hours and dates; designating certain streets, alleys, public rights-of-way, sidewalks or portions thereof subject to Tucson Code Section 7-401; and declaring an emergency.

B. TUCSON CODE: AMENDING (CHAPTER 22) CITY OF TUCSON EMPLOYEES' SUPPLEMENTAL RETIREMENT SYSTEM REGARDING THE END OF SERVICE PROGRAM INCENTIVE

- 1. Report from City Manager SEPT19-06-503 CITY-WIDE
- 2. Ordinance No. 10320 relating to pension plans and insurance; amending Chapter 22, Pensions, Retirement and Group Insurance, Article III, Tucson Supplemental Retirement System, Division II, Administration of the System, by reserving Section 22-54 through Section 22-77 and adding a new Section 22-53 End of Service Incentive; and declaring an emergency.

C. INDUSTRIAL DEVELOPMENT: ISSUANCE OF TUCSON INDUSTRIAL DEVELOPMENT AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS

- 1. Report from City Manager SEPT19-06-501 CITY-WIDE

Staff requested this item be continued to the Mayor & Council meeting of September 26, 2006.

D. MEMORIAL: REGARDING PROPOSED DAVIS-MONTHAN AIR FORCE BASE INCINERATOR

1. Report from City Manager SEPT19-06-508 WARD 4
2. A Memorial relating to the City of Tucson's opposition to the proposed Waste-to-Energy incinerator on City of Tucson land that has been leased to the United States Department of Defense.

Deborah Rainone, Deputy City Clerk, announced that as discussed in the study session, there was a change in section three line three 3. The new language in the Memorial would read "impacts from this or any proposed plan prior to an approval from Mayor and Council".

E. FINANCE: TRANSFER OF FUNDS FROM THE WARD 5 OFFICE BUDGET TO PLANNED PARENTHOOD OF SOUTHERN ARIZONA FOR THE REAL LIFE, REAL TALK PROGRAM

1. Report from City Manager SEPT19-06-510 WARD 5
2. Resolution No. 20459 relating to Finance; approving and authorizing the allocation of two hundred dollars (\$200) from the Ward Five Council Office budget to the Community Support Fund, Account No. 001-183-1898-268, to be allocated to Planned Parenthood of Southern Arizona for the Real Life, Real Talk Program; and declaring an emergency.

F. ASSURANCE AGREEMENT: (S05-071) LOFTS AT FIFTH AVENUE, A SUBDIVISION, 130 CONDOMINIUM UNITS AND COMMON ELEMENTS "A", "B-1" TO "B-7" AND LIMITED COMMON ELEMENTS "C-1" TO "C-7" (CONTINUED FROM THE MEETING OF SEPTEMBER 6, 2006)

1. Report from City Manager SEPT19-06-511 WARD 6
2. Resolution No. 20434 relating to planning: authorizing the Mayor to execute an assurance agreement securing the completion of improvements required in connection with the approval in Case No. S05-071 of a final plat for the Lofts at Fifth Avenue Subdivision, Unit Nos. 110-170, 221, 245-247, 255, 262, 265, 269, 270, 321, 345-348, 351, 355, 362, 365, 366, 368-370, 411-443, 448, 451-454 and 456-464; 130 Condominium Units and Common Elements "A", "B-1" thru "B-7", Limited Common Elements "C-1" – "C-7" and Limited Common Elements "C-110" – "C-170", "C-221", "C-245" – "C-247", "C-255", "C-262", "C-265", "C-269", "C-270", "C-321", "C-345" – "C-348", "C-351", "C-355", "C-362", "C-365", "C-366", "C-368" – "C-370", "C-411" – "C-420", "C-421" – "C-427", "C-429" – "C-443", "C-448", "C-451" – "C-454", "C-456" – "C-461", "C-463" – "C-464", "C-110A" – "C-120A", "C-130A" – "C-133A", "C-142A" – "C-144A", "C-148A" – "C-151A", "C-155A" – "C-161A", "C-221A", "C-245A", "C-255A", "C-265A", "C-321A", "C-345A", "C-355A", "C-411A" – "C-426A", "C-429A" – "C-441A", "C-442A", "C-443A", "C-452A" – "C-454A", "C-456A" – "C-461A", "C-463A", "C-464A", "C-438B", "C-439B", "C-434B" – "C-437B", "C-440B", "C-441B", and "C-456B" – "C-459B"; and declaring an emergency.

Item F was considered separately at the request of Council Member Trasoff.

G. FINAL PLAT: (S05-071) LOFTS AT FIFTH AVENUE, A SUBDIVISION, 130 CONDOMINIUM UNITS AND COMMON ELEMENTS "A", "B-1" TO "B-7" AND LIMITED COMMON ELEMENTS "C-1" TO "C-7" (CONTINUED FROM THE MEETING OF SEPTEMBER 6, 2006)

1. Report from City Manager SEPT19-06-512 WARD 6
2. City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Item G was considered separately at the request of Council Member Trasoff.

It was moved by Council Member Trasoff, duly seconded, that items on the Consent Agenda be passed and adopted and the proper action taken with the exception of Item C which was continued to the Mayor and Council meeting of September 26, 2006 and Items F and G which would be considered separately.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye:	Council Members Ibarra, Uhlich, Scott, Leal and Trasoff; Vice Mayor West and Mayor Walkup
Nay:	None

Consent Agenda Items A through E, with the exception of Item C which was continued and Items F and G, were declared passed and adopted by a roll call vote of 7 to 0.

6. CONSENT AGENDA – ITEMS A THROUGH G

F. ASSURANCE AGREEMENT: (S05-071) LOFTS AT FIFTH AVENUE, A SUBDIVISION, 130 CONDOMINIUM UNITS AND COMMON ELEMENTS "A", "B-1" TO "B-7" AND LIMITED COMMON ELEMENTS "C-1" TO "C-7" (CONTINUED FROM THE MEETING OF SEPTEMBER 6, 2006)

1. Report from City Manager SEPT19-06-511 WARD 6

2. Resolution No. 20434 relating to planning: authorizing the Mayor to execute an assurance agreement securing the completion of improvements required in connection with the approval in Case No. S05-071 of a final plat for the Lofts at Fifth Avenue Subdivision, Unit Nos. 110-170, 221, 245-247, 255, 262, 265, 269, 270, 321, 345-348, 351, 355, 362, 365, 366, 368-370, 411-443, 448, 451-454 and 456-464; 130 Condominium Units and Common Elements "A", "B-1" thru "B-7", Limited Common Elements "C-1" – "C-7" and Limited Common Elements "C-110" – "C-170", "C-221", "C-245" – "C-247", "C-255", "C-262", "C-265", "C-269", "C-270", "C-321", "C-345" – "C-348", "C-351", "C-355", "C-362", "C-365", "C-366", "C-368" – "C-370", "C-411" – "C-420", "C-421" – "C-427", "C-429" – "C-443", "C-448", "C-451" – "C-454", "C-456" – "C-461", "C-463" – "C-464", "C-110A" – "C-120A", "C-130A" – "C-133A", "C-142A" – "C-144A", "C-148A" – "C-151A", "C-155A" – "C-161A", "C-221A", "C-245A", "C-255A", "C-265A", "C-321A", "C-345A", "C-355A", "C-411A" – "C-426A", "C-429A" – "C-441A", "C-442A", "C-443A", "C-452A" – "C-454A", "C-456A" – "C-461A", "C-463A", "C-464A", "C-438B", "C-439B", "C-434B" – "C-437B", "C-440B", "C-441B", and "C-456B" – "C-459B"; and declaring an emergency.

G. FINAL PLAT: (S05-071) LOFTS AT FIFTH AVENUE, A SUBDIVISION, 130 CONDOMINIUM UNITS AND COMMON ELEMENTS "A", "B-1" TO "B-7" AND LIMITED COMMON ELEMENTS "C-1" TO "C-7" (CONTINUED FROM THE MEETING OF SEPTEMBER 6, 2006)

1. Report from City Manager SEPT19-06-512 WARD 6
2. City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Council Member Trasoff asked the City Attorney for clarification on Items F and G, relating to the process and the results of the appeal that was filed.

Michael Rankin, City Attorney, explained that these two items were on the Consent Agenda for approval at the September 6, 2006 meeting, but an amended appeal had been filed that same day. At that time Mr. Rankin recommended that the items be pulled until the results of the appeal were completed. The appropriate action at that time was to delay consideration of the approval of the final plat and assurance agreement until such time the appeal would be resolved. The affect of the filing of an appeal is that there is a "staying" or "hold" on any additional approvals or action taken by the Mayor and Council with respect to the project only if the appeal is appropriate and timely filed. This particular appeal with respect to approvals that were made in July 2005 and under provisions of our code that you have to bring this appeal within 30 days of the approval that you are going to challenge, unless you never had notice. Looking at the documents it

became clear that the appellants did have notice of the approval of the tentative plat more than 30 days before the time they filed their appeal. This means that the appeal is untimely and can not continue to be processed. It no longer presents a viable reason for delaying action. They were rescheduled for consideration at this meeting. The final plat approval was just a ministerial act of the Mayor and Council. Staff has certified that they are in conformance of the *Land Use Code* regulations and the tentative plat has been reviewed and approved by Community Design Review Committee. The appropriate action by the Council was to approve the final plat.

Council Member Trasoff restated Mr. Rankin's explanation and asked since staff had reviewed all of the material and having found that it was all in compliance our only course of action was to approve the final plat at that time?

Mr. Rankin agreed.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Items F and G of the Consent Agenda, Resolution 20434 and approve the final plat as presented.

Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Consent Agenda Items F and G were declared passed and adopted by a roll call vote of 7 to 0.

**8. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTERS 5 AND 7),
RELATING TO MOTORIZED BICYCLES OR TRICYCLES**

Mayor Walkup announced that City Manager's communication number 509, dated September 19, 2006 would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing for the proposal to regulate motorized gas and electric bicycles and tricycles.

Mayor Walkup said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked the speakers to come forward when their names were called, to state their name and address, and whether or not they lived in the City.

Stacy DeLancey stated she knew there was a push to ban motorized bikes in the City of Tucson and she had a back injury two years ago. This was how she gets around. She could not walk. If she walked, she would be out of work for two days. She works a

minimum wage job. If she were out of work for two days, she would lose her apartment. She would lose where she lived and would not be able to eat. This was how she gets to and from work and to and from church. Her church was not on the bus route. It was important for her to have this bike to get back and forth to work and to be able to enjoy church every Sunday. Some bicyclists do not like motorized bikes in the bike lane. She understood the restrictions of not being on the multi use path, however there were not bike lanes where she lives, only the shoulder of the road. She said she rides mostly in traffic because there are no bike lanes where she works. Bicyclists pass her on the way to church all the time going faster than her. She said she did not think she presents a hazard when she uses her rear lights and her headlights. This was how she got home from work at 10:30 at night. The buses do not run that late. When she has to work late at her job until 1:00 a.m., this was how she got home, using the motorized bike. She asked if the Council would want their daughters to walk two and one quarter miles home at night, at 1:00 a.m. She asked the Council if they would want their mothers or sisters to do that. She said she did not feel safe walking home that late at night. She would prefer to ride her bike and get home in ten minutes and feel safe in what would take her an hour to walk. These bikes were important. They needed them to get around, not to be a problem to everyone. She asked that they consider all the reasons.

Roland Bosma, representing Spooky Tooth Cycles, said there were three hundred plus motorized gas and electric bicycle and tricycle riders across Tucson. This had been an incredible endeavor. They had pulled some people out today in support of motorized gas and electric bicycles and tricycles. He said this issue started roughly a year ago and they thought they had a good idea on their hands. A motorized bicycle seemed innocuous enough. They were not aware they would run into so many legal problems. The legal problems started with A.R.S. 28-101, definition for a moped. A literal translation of A.R.S. 28-101 said that a motorized bicycle would fall under the category of a moped. A moped was a bicycle with a helper-motor up to fifty cc's up to twenty-five miles per hour. It seemed that was where they were. After dozens of riders received tickets for no license, no insurance or registration, he and Representative Tom Prezelski saw a need for new legislation. House bill 2796 was signed May 19, 2006 going into effect September 21, 2006 legalizing motorized bicycles, gas and electric. It matched what the Federal Government had always said, what the Motor Vehicle Division had always said, that twenty miles an hour was the cut off line, a cut off line between motor vehicle and non-motor vehicle.

Mr. Bosma said he would like the Council to implement the seven staff recommendations. The recommendations included having lights to ride at night, staying off the sidewalk; no more than one rider to a bicycle. They were consistent with City codes. The other considerations of staying off the multi-use path was a good concession to the bicyclists and the bicycling community. He said they needed this type of transportation in Tucson, one hundred fifty miles per gallon matters to people. He brought with him an emission report. He brought the results of the testing as proof that the gas driven cycle, which was much more popular than the electric bike because of the range of travel, was actually environmentally clean. It passed well within the standards of a motor vehicle according to the Arizona Department of Environmental Quality. If the

Mayor and Council would like a copy of the test it could be made available. He asked the Council to please consider the seven recommendations, they were very logical. They wanted to work with the City. They needed options and it was an extremely important form of transportation for hundreds of people across Tucson.

Myles James thanked everyone for coming out and their effort in taking into consideration the needs of their fellow citizens. He said these considerations were just as important as nearly any aspect that's been covered this year. He said one comes to a conclusion within the constraints of a very significant and important document that we call the United States Constitution. He said he believed it started when in the course of human events, one could embrace the simplicity of those beginning words of the most sacred document of our Nation. One could see not only clearly, but also profoundly, what he considered to be a fine young man. Roland Bosma's efforts had been very meaningful to a number of people who otherwise may not have options at all. He took into consideration Mr. James' own circumstance less than six months ago, as well as a gentleman he knew who was in attendance at the University of Arizona. That gentleman was a medical student. He was born into an impoverished family. He had to make a decision everyday as to whether or not he will be able to afford either a taxi service, public transportation that does not run at the specific hours of his late night work, or more specifically, and perhaps more profoundly, that he may consider the fact that he needs to eat. It was for this reason he came before Council today. A community based upon decisions that are righteous and true, that provide dignity for our fellow citizens, should be all of our goals, without exception. He said he was indeed grateful for the Council hearing him.

Karen Mansfield stated she has had five knee surgeries and she rides a bicycle. At some point she could foresee a time when she could no longer ride her bicycle as easily, but it would still be nice to be able to be outside in the air doing the same kinds of things that she had been doing in the past. She thought that there were a lot of people who needed bicycles as transportation to and from work. Her daughter was recently in a situation where her car was not working, she could not afford to fix it and no bus line went within six miles of where she worked. To have to walk six miles up hill in a very hilly, mountainous area to get to your work and then have to walk that far to get back to get to the nearest bus was difficult. She was an adult, she was thirty-five years old, but she still had circumstances sometimes that precluded her from being able to drive a car to work. So, for her, she was looking for this to be an option for her. She ended up fixing her car instead because she was having trouble finding a source for the bicycles. She had learned a lot more about it since this became an issue in the City, but she said she did think there should be some restrictions. She thought that it was obvious that if you gave these bicycles to people who were too young, or people who are not wearing helmets, or that kind of thing, or they were not properly lighted there could be problems. She thought what needed to be done was that the Council should enforce those kinds of restrictions on people for the safety of all concerned, but they should not eliminate this as an option to those people who would be responsibly using these bicycles and tricycles.

George Doe stated that about a year ago he bought his bike. He said it was the best thing that ever happened to him. He fell in love with the bike and modified it by painting it up really nice. He worked for an elderly lady and an elderly man by taking groceries back and forth for them. They appreciated it and he did not have to worry about certain things like gas. It had really improved his life a lot. There was nothing wrong with the regulation that the Council wanted to put on the bikes. He agreed that some people do mess it up for others. He understood that. People like he and others obey the law, they share the lanes. They also share with everyone else and there was nothing wrong with cars that have to share two lanes. He asked the Council to just take into consideration what other people needed and these bikes were doing for them, just like for him.

State Representative Tom Prezelski, District 29, stated he was the cause of some of this. He just wanted to clear up some misconceptions that he had heard in the media about what they were trying to do with the state law. He was not trying to do anyone any special favors; they were not intentionally trying to saddle the City with some great burden in terms of the regulations that had been placed on the City. All he was doing was taking an existing policy that Arizona Department Of Transportation had regarding what these vehicles were and putting it into statute to clear up some disputes between the police, traffic courts and Motor Vehicle Division. The legislature put an amendment on it mostly to address concerns raised by the City Attorney of Scottsdale, City Attorneys were sometimes a skittish lot and they want specific language in the law that says they can do certain things. They put certain language in the bill he thought was unnecessary, but it made the cities feel a little better, but said the cities retain the authority to regulate these bicycles and that was what he was doing now. He was not going to rehash the bizarre circumstances under which this legislation came to him that was well reported in the Tucson Weekly. He also wanted to mention Mary Okoye, she worked with him on this and she did a great job. He said he had been speaking to the National Federation for the Blind last Saturday and sat next to a woman who lobbies for blindness issues in the Phoenix area. It made him remember the first time he met her, which was when they were debating their regional transportation plan for the legislature in Phoenix. For some reason some of the folks in the east valley objected to transportation funds being spent on transit. They were trying to take the transit money out of Maricopa County's transportation plan and for some reason they said it was unnecessary. They said that transportation funds were for asphalt and that was all it was for. The folks that were lobbying for the blind were saying no, that some of them needed options and that was what we were really talking about here. They were talking about making sure that people who make responsible choices could be accommodated within the law. So there were people who were making a very responsible choice, they were choosing a responsible transportation option and the Council should do what they could to make sure the laws accommodate them. Whether they were riding motorized bicycles, pedal bicycles or whatever, they should make sure that the laws accommodate them. That was what they were trying to do here.

Representative Prezelski said these regulations were perfectly reasonable. This was what they had in mind when they put that amendment on the bill. The multi-use

paths did not go anywhere. The people who ride these bikes are typically using them to run errands or go to work. They do not want to use a multi-use path anyway. The multi-use path was actually the issue the City of Scottsdale had and those are purely for recreational purposes. The other regulations where they have the same laws as bicycles, that made perfect sense. That was all they were ever asking for. So, he urged the City Council to pass these recommendations and to reject the call to ban their bikes. He said that some of what he was hearing from the folks who want them banned was a little disturbing and he found it to be a little bit elitist and cultural in origin. If they went to the Star's web-site and read those comments, it was probably a dozen or so people who write those comments over and over again. But it was interesting where people were saying they should take these things off the road, most of those people were also saying we should take bicycles off the road.

Malcolm Pavey, Citizens Transportation Advisory Committee Chairperson, said they already sent a letter to the Mayor and Council. He just wanted to make a few more comments and he thanked the Mayor and Council for the opportunity. In his search, he did not want to say many, several, always, all this, but Times Insurance Companies do not cover motorized bicycles. New York State Department of Motor Vehicles exempts motor assisted bicycles, mini bikes, dirt bikes, go carts, motorized scooters. None of these types of vehicles may drive on parking lots, highways, streets or anywhere else where regular street traffic drives in New York. In Asia, the bicycle has always been considered an important part of the culture, but recently China, in particular, has started banning electric bicycles in some cities due to some recent accidents that authorities blame on electric motorized bicycles. The Mayor and Council voted not to allow motorized foot scooters or skateboards to be operated at any time legally. The Citizen's Transportation Advisory Committee that you appointed recommends and urges that for all of the reasons that the Council already knew about and had been discussed, that they do not allow motorized bicycles on the streets, multi-use walking jogging trails or paths or bicycles lanes either.

Paul Florence said he was struck when he heard that there was a law that provided a niche for bicycles that had a clutch, had a motor that was fifty cc's or less and had pedals that could be used as a bicycle. This was permitted by executive order. He was excited about that because he could not afford his car and he could not afford a license and he could not afford the gas to drive six people to and from a place that one motorized bicycle could. It had meant, that in his profession as a handyman, that he had the mobility to make a living. Without the motorized bicycle he would be dependent on his children or his friends for transportation or the bus. He asked if they had ever tried to carry a twelve-foot stepladder on the bus, it was a little awkward. He felt that this would be a win-win situation for the Mayor and Council, as well as people. He asked the Council if they could imagine in the next election campaign being able to say they voted for inexpensive transportation. He said for people his age and older, as the gas and the oil prices go up, it was one time they would not have to fight the oil company. For the politician, he could say "Look I have already done good things for you. I have approved in Tucson the use of this form of transportation that gets one hundred and fifty miles per gallon."

Mr. Florence said on the road he had never had a problem with a motorist saying, "Move over, I want all of the territory for my car." In using the bike lanes, he had never run into a cyclist that had given him an indication with his hand that he was number one and he was less than that. He had never run into a situation, other than irresponsibility of motorists, thinking they could cut him off because they have to go to the Circle K and get their cigarettes and zoom they are right there. You have to slam on your brakes or become part of their paint. So, this form of transportation protected by the niche of wartime law, executive order made wonderful sense to him. And he has had a wonderful time using it. The only time a person really would have trouble using it was if they wanted to go from here to Eloy. With flashflood warnings, they would have to go through the ditches and watch for the water and then, of course the bugs in the teeth. But, things like goggles, lights and helmets, were necessary for riding a bicycle much less a motorized bicycle, because there was no way you win with a collision with a six thousand pound vehicle. By the same token, he asked how much damage does a bicycle with an outboard motor cause if it collides with a car. A car colliding with a car, there was a problem. A bicycle colliding with a car, there was not a problem. As to the twenty miles per hour thing, he asked the Council to remember the gentleman who was riding his bicycle up in Catalina, practicing for the Olympics. He got killed because some motorist had pulled over into the bicycle lane, stopped and was talking on his cell phone. This guy ran into the back of his trailer, was in a coma for three days and then died. It was estimated that his speed was twenty-eight miles per hour. We are talking twenty. In addition, at night when riding you want to see where you are going. And if you have been on a bicycle and had a bug fly in your eye, having something to protect your eyes was a self-fulfilling kind of a thing. In addition, it does not take very long to know, not all of the shoulders and roadways in Tucson are level with the bike lanes. Sometimes there was a difference of an inch or two inches and for a cyclist that can make a big difference. He said that could and has caused him an accident. When you fall off a bike protecting your head was a self-fulfilling prophecy. A helmet was something very normal and natural to do, in his opinion.

Mark Ulmer stated that Council Member Uhlich kindly provided him with a copy of the ordinance and he had taken a good hard look at it. He was asking that it be adopted tonight. He said he had two ideas for an amendment, maybe not tonight, but for later on. He asked the Council to follow the recommendation of the City Manager, in that regard. Mr. Ulmer said he was a criminal defense attorney and he did most of his work downtown in Superior Court. He said he owned a low-speed electric bike and has used it basically everyday for the last two summers to commute from his home, which was at Mountain and Prince, downtown to his office. Several times a week he went out to the Pima County Jail and then back home again. His bike was emission free, it had a top speed of about fifteen miles per hour, and the pedal drive train was intact. He could use that if he wanted or needed to. His route took him south on Mountain Avenue, across the campus over to Fourth Avenue, south on Fourth Avenue. He said every day he went through the most beautiful under pass on the planet and up by the Congress Street Hotel to downtown. In all of his electric biking on that route, he had never seen a conflict between other bicyclists, pedestrians, or automobiles. He emphasized again that he had a

low speed machine. He was guessing fifteen miles per hour give or take. He said he would like to emphasize that the ordinance, which he believed was especially well crafted, contained a number of limitations that should give considerable comfort to those who had a concern about this technology being introduced to the community. Under the ordinance, the top speed was nineteen miles an hour and if you went over that, you would be treated like an automobile and be ticketed accordingly. The age restrictions made a lot of sense to him. All of the laws and the limits that were applicable to bicycles apply equally to him. The lighting requirements were eminently sensible. There were fines and fees if you went beyond the allowances and if you were the parent of a minor you were in some trouble if your child was in violation. This was a reasonable framework to allow promising technology to be used by the people who needed it.

Mr. Ulmer mentioned two possible changes for consideration. He said two thoughts occurred to him when he was reading the ordinance. He said he thought the beauty of these bikes was that the pedal drive train was in tact and that put this technology in the classification of a bicycle much more than any other system. He would like to keep it that way and he would like it to be explicit in that regard. That they were only going so far with the adoption of this ordinance and not one-centimeter farther. The other thought that occurred to him when the merchants post these ordinances where they sell these bicycles, one thing that was missing in that list of notices was the speed limit. He said if he were selling bikes he would want to post that speed limit and at the moment of sale he would want to urge the purchaser to buy a speedometer as well, to protect his liability in that transaction. If the ordinance said you got to talk about the speed limit when you sell, it would induce the offering of a speedometer at the point of sale and further increase the safety of the vehicle. This was safe transportation in his personal experience. It was compatible with all other means of transportation, including pedal bikes. It was good for the environment and was going to help out with global warming. It was good for the nation and was going to reduce dependence on oil. It was good for people who could not afford to buy a car and for whom the bus was not a complete solution. He needed his bike. He loved his bike and he hoped he could keep using it.

Bob Cook stated he was a newly appointed member of the Citizen's Oversight Committee for the Regional Transportation Plan. He was co-founder of a new group in Tucson called Sustainable Tucson. He was also working on the Strategic Energy Team for Pima Association of Governments and Metropolitan Energy Commission. He was honored to be asked to come down and support this, which he did enthusiastically. He said he met Roland this summer. He attended one of his three community conversations held at the Main Library on energy shortages during a period of surging global energy demand. He got to know Roland and was so amazed how this young man truly understood the century we are now entering and understood some of the energy issues involved. They just finished drafting a set of recommendations on this strategic energy team and he read the introductory paragraph on the transportation section. "Transportation was the largest user of energy, accounting for more than half of all energy demands. Over ninety-nine percent of all transportation was powered by petroleum fuels and more than two-thirds of United States petroleum was from imported oil. In 2005, the Tucson region consumed more than six hundred million gallons of

gasoline and diesel fuels, up from four hundred fifty million in 1998. A greater concern, local expenditures for transportation fuels are increasing significantly from four hundred and eighty million dollars in 1998 to 1.84 billion dollars in 2005. An increase of three hundred eighty percent.” Mr. Cook said this was the issue they were talking about. This was a social equity issue and an issue about how to deal with energy and transportation in our community. He said they have made great steps and the regional transportation plan that was approved by voters in May was a step forward because they were going to be able to expand sidewalks, bike paths and bus services and give people options. This was also a very important step because it created an alternative for people to get around very conveniently with very little impact on the environment and on energy consumption.

Mr. Cooper said he had the opportunity to pass one of the Spooky Tooth bicycles just after he had talked to Roland one day and actually stopped the bicycle to confirm that it was a Spooky Tooth. He was totally surprised at how quiet it was. He said they could not be confused with those little rickety scooters that were around here a couple of years ago that drove the neighborhoods crazy. This was not that kind of a vehicle. It was quieter than a car and it reduced pollution. He said he had every confidence that this young man would adapt new technologies to this form of transportation, better motors, better electrical systems and storage systems evolve in the next ten years. Innovation would come to this technology. He told the Council not to assume that what they were voting on today was going to be the end result. This was just the beginning. He said he would close by saying that he thought that Roland represented the right kind of entrepreneurship and social entrepreneurship that was needed and he would hate to see this community discourage this kind of initiative.

Alex Noelke stated that the last time he was up here at the podium he preached on the level of confidence you could get from being able to depend on a reliable form of transportation and he took a lot of pride in that. But, then that also made him realize how our society was just completely and solely dependent on transportation. Roads were not made to walk on and how many people can honestly say they can walk to work. All of their lives people just rely on cars, bikes and buying gas. But, then someone had come out of the woodwork, someone with an option, namely Spooky Tooth. It was an affordable, reliable, environmentally friendly and safe option. It was like dream come true to people who had no other options. People who could not ride bikes, could not afford cars, could not drive cars, it worked for them. Over the past few years’ people have put reliance on that and it had proven successful. This was an idea that was almost perfect. It was an option that everyone could access and rely on and to label it as almost criminal and try to ban it completely was totally absurd. He said his understanding was what they had put before the Council as reasonable regulations included helmets and lights which were all things that were common sense. He thought they could all work to come up with a good solution.

John Flanning, Ward Three representative for the Bicycle Advisory Committee, said he put his name on the card as a placeholder for their chairperson and he said she would like to speak in lieu of him.

Diana Tolten, Tucson-Pima County Bicycle Advisory Committee Chairperson, said they were asked to come up with a position on this particular law. What she wanted to tell the Council was that the Bicycle Advisory Committee embraces alternative transportation. She said she would love nothing more than to see more alternatives out there in addition to this, but their issue was not specifically with the idea of a motorized bicycle, it was this particular law. She said that on her way there she passed one of those bicycles and her daughter was with her and they clocked him doing thirty miles per hour. The way the law was written was if a person goes over thirty miles per hour they were now required to have a driver's license, registration and all the safety equipment of a moped. The bicycle was a Spooky Tooth bicycle. The way this law was written when people were going to be on the streets with bicycles that were supposed to be going twenty miles an hour or less, and they were going to be speeding and they were not going to be required to have the safety equipment etc. The Committee's issue was not with alternative transportation, but with the state law and the way it was written. They could not see, as a committee, a solution because of the limitations of what the Council could do that would be satisfactory especially when it came to the safety issues with the bicycles. He was not wearing a helmet either and he was not sixteen and the way the law was written anybody of any age could ride them. That was a concern. They saw it as a way to circumvent the current moped laws. When she was fifteen and lived in Oklahoma she had a motorcycle because it was legal to ride a motorcycle at fifteen with that governor and guess what, that governor was taken out almost immediately. She did have an accident and she thought it was because the bike was not built to go faster than what the governor allowed. That was a concern she had with this current law and the way it was written and she said they were going to have citizens who were going to say they had a bicycle that was going twenty. They would not have a license or registration and they were going to be caught violating when they were traveling at thirty. They could theoretically get over twelve hundred dollars worth of tickets. The whole idea that it was an economical, fuel-efficient method that helped people that were poor was great, if they abide by this law, but there were too many ways for them not to abide by it and get into trouble financially and other ways legally.

Ms. Tolten said if this law were different at the State level they would be supporting it, because the problem was not the idea of the alternative transportation, it was the idea that it created a safe environment for these bicycles for everybody on the streets. If this was not really about circumventing the law, then they would be supporting it. They had a letter that stated, based on their research, the moped was a viable alternative. These motors are just as close and there were laws in place within the state now, so they endorse not allowing these bikes. If someone wanted a motorized two-wheeler, they could use a moped unless the Council could figure out a way to handle all the issues that they saw with this law. She said she would love to see rollerblades and every kind of wheel out there on the streets, but the infrastructure was just not there right now. As a community they needed to re-evaluate their transportation philosophy as a whole and really consider how this could fit in. That was what they needed to do as a community to support it and not have people dying on their bikes and having accidents with uninsured motorized bicycles.

Fred Froehlich said he was an American Veteran, disabled and being treated at the VA hospital. He was a rider of one of these motorized bicycles. He got on the internet last week because he knew that the meeting was coming up. Most of the stuff that was written about was what had been talked about. But what had not really been addressed was the American's with Disabilities Act. The Department of Transportation and the City of Tucson had an advisory commission that dealt with disability issues. He has not seen or heard any of those people involved in the discussion on motorized bicycles. He suggested that Council hold off on this situation until they could put two handicapped individuals on the bicycle commission so they could get an even hand on the other side of the issues that had been raised. As far as the safety and the speed concerns, the last lady who spoke reminded him of the days when the horse and buggy used to be around. When they invented the horseless carriage they were all afraid of the speed, noise and the things that went on. The motorists at that time had to stop and pull their car over to the side and dismantle it until they could let the horse get by and then they would put their car back together and drive on down the road. That was the technology that had come along now. He believed that the people of the Bicycle Advisory Commission had taken the stand on trying to stop the advancement of this technology, just as they did years ago with the horseless carriage and the horse and buggy. All he had to say was that somebody needed to look at this from the disabled side under the American's with Disability Act. According to the Department of Transportation they encouraged bicyclists and pedestrians, including those with disabilities. The more the handicapped individual puts into his own mode of transportation, the less money the government had to fund those transportation needs for people like himself that are handicapped but could still get around.

Paul Bley said he appreciated the chance to bring a personal perspective to this. If the Council was wondering what types of community members would be effected by how this would go down in the end, he was one of the riders. He had been a bicycle commuter in Tucson for over a dozen years. He had worked at various places including Rita Ranch and all major employers out there, as well as other employers on the Northwest side of town which were extremely far off the bus lines. He said he was at the State of the City Address when the Mayor was elected and he was actually interviewed on TV that night as a banquet waiter asking for his opinion about the local economy and what it took to survive here in town. He had been employed off and on over the years but it sometimes took two jobs to survive in Tucson. With that type of a schedule, as a bicycle commuter, he was forced to ride at night and to use the bus with only space for two bikes at a time. He was forced to ride in bad weather because he rode everyday, three hundred sixty five days a year. His wife also rode and she had managed to put up with this type of a lifestyle for a long time. The Council might consider that somebody that did ride a bicycle solely as a choice of transportation must go to the store more often, with lesser loads to be able to handle that.

Mr. Bley stated when you were a commuter you learned the rules of the road. He had gotten one ticket in his career as a rider from riding his bicycle on the sidewalk and he had learned his lesson from that. He said the reason he was there speaking to the Council was because he wears a helmet and he knew that was very important. He said

the considerations that were up for grabs right now were that in order to survive on a two-wheel vehicle that was not a heavy-duty motorcycle you would be compromised in many ways. It was truly survival of the fittest. Those who went faster on such a vehicle were playing against the odds. He had been passed several times in the past few months by road bikes and lighter bicycles than his Spooky Tooth motorized vehicle and he would be very willing to put a speedometer on his bike to make sure he was abiding by the law. He said he thought that the recommendation for helmets and lights made sense. As with any type of bicyclist, these were necessary things for their survival and safety. However, by putting other restrictions or banning these bicycles off the road they were keeping people who must look for additional alternatives, besides just human powered bicycles, at a disadvantage. He was willing to be that type of bicyclist, but he was in his late forties now and had been hit a couple of times in the past years in vehicle-bicycle incidents and he came out on the bad side of it. Things like insurance caps at fifteen thousand dollars can really use up your ability to recover damages when a vehicle struck you. He was told by lawyers at the time to cover himself, keep his own insurance in tact and he did that with his motorized bicycle as well. He said he wanted to be able to keep working at employers that were off the bus lines. He wanted to be able to take a moonlight job and support himself above his means in an otherwise fairly low-income wage area in this part of the state. He needed this type of transportation to be able to have the wind at his back and be able to ride downhill, because that was what it was like riding one of these motorized bikes. He and his wife each own one at this point, they liked having both the electric vehicle and the gas powered vehicle. His wife knew she would get stranded if she tried to use the electric bike and tried to go further than it was capable of with the range and the heavy weight of the batteries. That was not a vehicle you wanted to push home with those batteries. He had also run out of gas on the motorized bike. He would like to say that the one that was built for him by Spooky Tooth and Roland's wonderful enterprise was something that was a lot heavier than the type of bike he used to ride everyday. When he ran out of gas on it, he could peddle home, but he did not want to and it was not as much fun as riding it motorized. He asked the Council to please keep in mind that some people really depended on having these options and it was a good thing for a lot of people.

John Karle said he had purchased one of these bikes about a year ago when he decided to buy a house out on the far side of town. His income was not great and his wife's work schedule and his conflicted. The transportation was an eyesore for them and a big problem. He purchased his bike to get nine miles to and from work each way, every day, six days a week. He rode in the coldest and wettest weather and this was his means to get back and forth to work. He rode safely and he used lights, mirrors, turn signals, brake lights, horn and he rode in the bike lane. He followed all of the rules of the road. He had cars that had cut him off making a right hand turn and he had been able to control his bike safely. He knew there had been issues about the brakes on it, but he had not had one accident on his bike. When he worked in Pennsylvania he had ridden mountain bikes. He had the same problems there as he had here, it was all in who was riding the bike and how they handled it. It was how you looked at your own safety. He said without his bike, he would not be able to work his job. He worked for customer service and worked split shifts and odd shifts. Taking a regular bike to and from work in the hot

weather and the cold weather, he did not want to end up standing in front of somebody trying to help them out and be sweaty, tired and then try to find his way back home again. He did not want to have to depend on somebody to come pick him up for work and take him home. Where he lived, the bus line did not even come anywhere near it; he would have to walk at least six miles to make the first bus stop. He would have a three-mile bus ride to work. That was just not worth the time or the trouble. These bikes had been a great help to him. Without his bike he would be without a home, without a job and the Council would support him in the City Jail.

Larry Florez said he had been a Pima County employee for twenty years. The last four and a half years he had been riding his bicycle to work because he enjoyed it. It was roughly about nine and a half, maybe ten miles, each way. He had ridden his bike through rain for the four and a half years he had used it. When he took his car, it took him roughly twenty-six minutes to get to work. When he started riding his bike and as he got better, he got there in twenty-six minutes on a regular road bike. People were saying that these motorized bikes went too fast. He asked how fast did the Council think he was going on his road bike. He had to be doing at least thirty and he could do that easily. His bike stopped really well. He owned two bicycles with motors that he had built himself. He had the same amount of problems that he had with his bicycle and his motorized bike with people cutting him off. He said he realized that when he got to an intersection, he should move over to the right and slow down. He had lights that flash and he ran them during the day and at night so people could see him. People actually waited for him to go by when he was going down the road and someone needed to turn in front of him. If he turned them off, they cut him off. He built these bikes for his own use. He stated he had friends that could not afford a car and he talked them into getting a bicycle. He has made them mobile and he could see they were very happy. He could see that this transportation was really great for a lot of people. He preferred his bicycle, but he enjoyed his motorized bikes. People could say he was going too fast, but he could keep up with the motorized bicycles if he wanted too. If they were going to put restrictions on, they were going to have to do it for everybody. He saw people out at night with no lights or helmets on bicycles, but he wore his helmet with the lights and he was visible daytime or nighttime. No way would he ride a bicycle without lights or anything. He saw plain bicycles out all over Tucson at night. Sometimes he worked evening shift and he got off at eleven at night and he saw people on bikes going through sidewalks with no lights. He would be scared to get on the road without all the stuff he has. As far as the bicycles themselves, that are gas powered, he was responsible. He was fifty-four years old. He knew he could get a ticket if he went too fast and it did not matter if it was a bicycle or a motorized bike. He said he used his bike for transportation around the neighborhood, to go visit his friends and during the week he used his regular bike.

Jeff Dolan said he was also a veteran and he was on disability. He had seven leg surgeries at the Veteran's Administration Hospital and just got his hip replaced two months ago. He needed the electric bicycle he bought. He went to the grocery store and he also had animals that he exercises with every night in his neighborhood. He could not walk his dogs anymore, but he loved animals. If the Council took that away from him they were really restricting him and a lot of other poor people and veterans that just could

not afford other means of transportation. This worked for him and he really liked the entrepreneurship. He said he was hoping that they would take it even further and start using some of the wind and solar powers around here. He wanted the Council to keep in mind that this was a university town. He rode a bicycle for nine years before he ever bought a car and so did his wife. He could not pedal a bicycle anymore because he could not bend his knee past forty-five degrees, but he could ride the motorized bike. He was able to get a lot of things done with it and it was necessary for him.

Mayor Walkup asked for a motion to close the public hearing.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Mayor Walkup announced the public hearing was closed and asked the City Clerk to read Ordinance 10321 by number and title only.

Ordinance No. 10321 relating to motorized electric or gas-powered bicycles or tricycles; providing definitions; regulating operation; prohibiting operation by persons under the age of sixteen; prohibiting operation on sidewalks and multi-use paths; requiring riders and passengers under the age of eighteen to wear a helmet; requiring lamp and red reflectors for nighttime use; declaring violation to be a civil traffic violation; requiring merchants to make certain disclosures in connection with the sale of motorized bicycles or tricycles; and declaring violation to be a civil infraction by amending the Tucson Code, Chapter 5, Bicycles, by adding a new Article II, Motorized Bicycle or Tricycle, Sections 5-4 to 5-11; amending the Tucson Code Chapter 7, Business Regulated, Article XXII, Merchants' Disclosure Requirements, by adding a new Section 7-481; and declaring an emergency.

Council Member Trasoff said she supported this measure and asked for a review in nine months or a year to look at the safety implications and to see if it was working. Since there were safety issues raised, they should come back in nine to twelve months to review the progress, if that was agreeable with her colleagues.

It was moved by Vice Mayor West, duly seconded, to pass and adopt Ordinance 10321. She said if Council Member Trasoff wanted to amend the ordinance after it was seconded it was acceptable to her.

Council Member Trasoff restated her amendment to the motion to include a review in one year to see the safety implications of the decision they were making.

Vice Mayor West accepted the amendment.

Mayor Walkup asked if there was any discussion.

Vice Mayor West said she had big concerns about the safety issues. She respected the Citizens Transportation Advisory Committee and the Bicycle Advisory Committee and said she understood that their concerns were justified. She also understood that it was important for others to get around the community. She asked if the speed limit should be posted by Spooky Tooth or was there a legal reason that they could not.

Mr. Rankin said there was no legal reason why they could not include the speed limit in the disclosure.

Vice Mayor West asked if that would be an amendment.

Mr. Rankin said that to include the speed restrictions in the mandatory disclosures would require an amendment to the language of the proposed ordinance.

It was moved by Council Member Trasoff that discussion and posting of speed limit at site of sale be included in the ordinance.

Mr. Rankin suggested waiting until discussion was concluded, in case there were other changes suggested, then restate the amendment.

Mayor Walkup asked if there were further discussions.

Vice Mayor West said that the State law would go into effect on September 21, 2006. She asked how Ordinance 10321 would interface with the State law. She asked if the City's law would go into effect in thirty days or immediately.

Mr. Rankin said, assuming there were enough votes for the emergency clause, the Ordinance would go into effect immediately.

Vice Mayor West said she was concerned it would be an enforcement nightmare.

Council Member Uhlich said she understood that the Citizens Transportation Advisory Committee and the Bicycle Advisory Committee took time to review this and that at the one year mark some concerns stated would probably come up. Those might include the bike drive train staying intact and perhaps a speedometer might be required. Her understanding that the bikes are set and that would keep them at twenty miles. She

noted that responsible riders would probably be key to the one year review. Do not tamper with the bikes; keep them the way they are, they are great.

Mayor Walkup noted that he had recently bought a bicycle and he also got a speedometer. He suggested anyone who buys a motorized bicycle purchase a speedometer for safety reasons and anyone selling one might want to consider putting a speedometer on the bicycle for safety reasons.

Mayor Walkup asked Vice Mayor West if she would like to restate her motion with any modifications she would like to make to her motion.

Vice Mayor West restated her motion to pass and adopt Ordinance 10321, duly seconded, including the one-year review and the posting of the twenty-mile per hour speed limit at point of sale, as requested by Council Member Trasoff.

Mr. Rankin advised Vice Mayor West that the affect of that motion would mean, that in section 2 of the ordinance before the council which is section 748, in subsection b a new subsection 3 would be added which is the subsection regarding the notice that is required that would read that the notice also shall advise that a motorized bicycle or tricycle operated in excess of nineteen miles per hour is regulated by state law and must comply with state law requirements.

Mayor Walkup called for a roll call.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Ordinance 10321 as amended was declared passed and adopted by a roll call vote of 7 to 0.

9. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 506, dated September 19, would be received into and made a part of the record.

Mayor Walkup asked if there were any personal appointments to be made.

Council Member Leal announced his personal appointment of Hector Morales to the Citizen Police Advisory Committee.

10. ADJOURNMENT: 7:10 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, September 26, 2006 at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 19th day of September 2006, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:plp/rp